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From: Kenney, James
Sent: Fri 7/19/2013 11:26:30 AM
Subject: United States Reaches an Agreement with XTO Energy to Prevent Waste Spills from Natural Gas Exploration and Production

Energy Extraction Water Technical Group and other Enforcement Colleagues,

Ex. 5 - Deliberative

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Thanks,
Jim

United States Reaches an Agreement with XTO Energy to Prevent Waste Spills from Natural Gas Exploration and Production

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WASHINGTON - The U.S. Environmental Protection Agency and the U.S. Department of Justice announced a settlement with XTO Energy Inc., a subsidiary of Exxon Mobil Corporation, to resolve an alleged violation of the Clean Water Act (CWA) related to the discharge of wastewater from XTO's Penn Township, Lycoming County, Pa. facility used for the storage of wastewater generated by natural gas exploration, commonly known as fracking, and production.

The federal settlement requires that XTO pay a penalty of \$100,000 to the United States and spend a federal government-estimated \$20 million on a comprehensive plan to improve wastewater management practices to recycle, properly dispose of, and prevent spills of wastewater generated from natural gas exploration and production activities in Pennsylvania and West Virginia. Among other things, XTO must install a continuous, remote monitoring system for all of its permanent production located throughout Pennsylvania and West Virginia with alarms that will be triggered to alert operators immediately in the event of any future spills and implement a program to actively monitor interconnected wastewater storage tanks located throughout Pennsylvania and West Virginia.

The discharge was discovered by the Pennsylvania Department of Environmental Protection (PADEP) during an inspection of the Penn Township facility, where a PADEP inspector observed wastewater spilling from an open valve from a series of interconnected tanks. At the time, XTO stored wastewater generated from energy extraction activities conducted throughout Pennsylvania at its Penn Township facility and, at the time of the release, stored produced fluid from its operations in the area.

Pollutants from the release were found in a tributary of the Susquehanna River basin. EPA, in consultation with PADEP, conducted an investigation and determined that wastewater stored in the tanks at the Penn Township facility contained the same variety of pollutants, including chlorides, barium, strontium, and total dissolved solids, that were observed in those surface waters.

"Today's settlement holds XTO accountable for a previous violation of the Clean Water Act and requires operational changes and improved management practices to help ensure the safe and responsible handling of wastewater produced during natural gas exploration and production activities," said Robert G. Dreher, Acting Assistant Attorney General for the Justice Department's Environment and Natural Resources Division. "The Justice Department is committed to ensuring that our natural resources are developed in an environmentally responsible manner."

Under the settlement with the United States, the substantial improvements to XTO's wastewater management are estimated by the federal government to reduce discharges of total dissolved solids by 264 million pounds over the course of the next three years. These reductions will occur in large part because XTO will increase wastewater recycling and will properly dispose of wastewaters generated by its natural gas activities across the mid-Atlantic region. In addition XTO will implement a region-wide program of operational best management practices which include: secondary containment for tanks used to store wastewater, improved standard operating procedures designed to reduce the risk of a spill, a prohibition on using pits or open-top tanks to store wastewater which will prevent air emissions, remote monitoring of tank volumes to prevent overfilling and spills, and proper signage on all tanks with safety information and a manned, 24-hour emergency phone number.

"The operational improvements required by today's settlement will help to protect precious surface and drinking water resources in Pennsylvania and West Virginia," said Cynthia Giles, assistant administrator for EPA's Office of Enforcement and Compliance Assurance. "EPA continues to push for responsible development of domestic sources of energy and to insist that companies play by the rules that protect public health."

"This consent decree establishes a program of best practices that should be a model for the industry and, if followed, will give a level of assurance to the people of the Commonwealth that their waters will be protected. This settlement is in the long-term best interest of the taxpayers, the industry, and our children," stated Peter J. Smith, U.S. Attorney for the Middle District of Pennsylvania.

Untreated discharges of wastewaters from natural gas exploration and production activities typically contain high levels of total dissolved solids and other pollutants and can adversely impact fresh water aquatic life and drinking water quality.

The consent decree, lodged in the Middle District of Pennsylvania, is subject to a 30-day public comment period and court approval. The consent decree is available for review at www.justice.gov/enrd/Consent_Decrees.html

More information about the settlement: <http://www2.epa.gov/enforcement/xto-energy-inc-settlement>

More information about EPA Region III's activities related to natural gas extraction:
http://www.epa.gov/region3/marcellus_shale/

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